IN THE CIRCUIT COURT FOR
MONTGOMERY COUNTY, MARYLAND

LOUIS DYER, **6413 Sweet Meadow Court** **Gaithersburg, Maryland 20882** ***Plaintiff,*** **v.** **ORACLE CORPORATION,** **500 Oracle Parkway** **Redwood City, CA,** **Serve Registered Agent:** **The Prentice-Hall Corporation** **11 East Chase Street** **Baltimore, Maryland 21202** ***Defendant.***	**Case No.:** 414213V

RECEIVED
JAN 29 2016
Clerk of the Circuit Court
Montgomery County, Md.

CIVIL COMPLAINT FOR EQUITABLE
AND MONETARY RELIEF AND DEMAND FOR JURY TRIAL

Louis Dyer, by and through counsel, herein files suit against Defendant Oracle Corporation ("Oracle"), and asserts claims of employment discrimination and retaliation pursuant to the Maryland Annotated Code of 1957, art. 49B, §§ 16(a), 16(f) & 42(a) (1998) and Montgomery County Human Rights Law, § 27-19 of the Montgomery County Code.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this action and venue is proper in this Court subject to Md. Code, State Gov't § 20-1202(c)(2) because the alleged discriminatory acts occurred in Montgomery County.

PARTIES

2. Dyer is a resident of the state of Maryland and resides 6413 Sweet Meadow Court in Gaithersburg, Montgomery County, Maryland. Dyer works for Oracle almost exclusively out of his home residence.

3. Oracle's principal office is located at 500 Oracle Parkway, Redwood City, California. Oracle maintains an office at 1900 Oracle Way, Reston, Virginia 20190. Oracle is a foreign corporation incorporated under the laws of California.

FACTUAL ALLEGATIONS

4. Dyer is a fifty-six year old black male who was born in Haiti.

5. On or about September 7, 2012, Dyer interviewed for a Regional Manager position with Oracle. Ken Jarrett, a black male, conducted Dyer's interview at a Sheraton in Columbia, Maryland.

6. Several aspects of Jarrett's employment interview of Dyer focused on race and how Jarrett believed it was his mission at work to advantage black people. Specifically Jarrett declared the importance of raising equality in the country and being engaged in "the fight" by helping people of color. Jarrett also said that he was looking for a like-minded candidate for the Regional Manager role.

7. During the interview Jarrett also told Dyer, "My boss is a typical white man, you'll see."

8. When Jarrett asked Dyer, "Where are you from," Dyer responded, "Maryland." Jarrett then asked, "Where are you from originally - I see you have an accent?" and Dyer replied, "Haiti."

9. Thereafter Oracle offered to Dyer a Regional Manager position to replace Jarrett,

who had been promoted.

10. On or about December 3, 2012, Dyer started his employment at Oracle as Regional Manager.

11. On or about December 14, 2012, Jarrett hosted a staff happy hour at a restaurant, and at this happy hour Jarrett pulled Dyer aside and told Dyer that he was happy to have Dyer working at Oracle and that he had organized the event to showcase and introduce Dyer to coworkers.

12. On or about January 7, 2013, Dyer had a one-on-one meeting with Juanita Deans, a black female who was also his direct report. When Dyer arrived, she immediately told Dyer that "I don't know you" and "You are not my boss" and "Ken told me he is my boss, not you."

13. On or about January 29, 2013, Dyer received an email from Deans accusing him of harassment. Dyer perceived the potential ramifications of this email and immediately forwarded it to Barb Patterson in Oracle's human resources office. Dyer also reported the email from Deans to Jarrett, and Jarrett then declared that he was upset that Dyer had forwarded Deans' email to human resources. Jarrett then explained to Dyer that Dyer should have come to Jarrett to when he received the email.

14. On or about February 4, 2013, Jarrett told Dyer that he did not have a "grasp of the bigger picture" and that a black person does not report another black person to human resources. Jarrett further told Dyer, "You are perpetuating the image of the black man as a sexual predator, that's how the white people in the company will see it."

15. Jarrett then declared that Dyer did not understand the "black struggle in this country" and that "maybe you are not a good fit for the role after all." He then threatened Dyer's job and told Dyer that he should have come to him about the email and not gone to human

resources. Jarrett then said that Dyer's "relationship needs to be reset."

16. On or about February 14, 2013, Dyer reported Jarrett's discriminatory comments to Kevin Davis, Jarrett's manager, during a one-on-one meeting that Davis requested. When Dyer told Davis about what Jarrett had said, Davis laughed and shook his head. In response, Dyer told Davis that Jarrett's behavior was discrimination on the basis of national origin, race, and gender.

17. On or about February 21, 2013, Dyer met with Jarrett and made statements such as, "I have seen things in this country that you haven't seen," referring to race relations in America that Dyer might not be aware of, not having grown up in the United States. Jarrett then confirmed that Dyer's job was in jeopardy and stated that he would deal with human resources at his level (Director/Vice-President) and would get a different answer.

18. Accordingly, on or about February 26, 2013, Dyer sent Jarrett an email titled "For The Record" because he feared for his job, and in this email Dyer outlined his concerns and memorialized Jarrett's prior statements.

19. In or about March 2013, Jarrett led a conference call with Dyer, one of Dyer's direct reports, and a Business Development representative to discuss the Missile Defense Agency ("MDA"). Everyone on the line was of African descent, and during the call Jarrett made customer engagement assignments based on race and fraternity and sorority affiliations. For example, he talked about a CIO customer being black and that a black sales representative should deal with the customer. In addition, Dyer's direct report, Stephanie Cummings, a black female, was to engage with the contracting officer because Jarrett said that the contracting officer was Cummings's "soror."

20. On or about March 12, 2013, Dyer was at the podium during an all-hands team

meeting and asked his team to close their laptops and pay attention to the presentations. Jarrett interrupted and told the team that they could keep their laptops open.

21. On or about March 18, 2013, Jarrett undermined Dyer on a conference call with Dyer's direct report, Deans. Deans said that she obtained a customer's organization chart, and Dyer asked to see a copy. Deans refused to share the document, and Jarrett intervened and decided that she did not need to share it with Dyer.

22. On or about March 18, 2013, Dyer wrote to Jarrett and asked him to work closer with Dyer for any course corrections. Jarrett responded and then said that, "This is unfortunate that I have to spend valuable time responding to your documentation." He added, "If there is a need for HR intervention, I will be prepared." Dyer replied, in part, that Jarrett's "handling of [his] transition into Oracle is setting [him] up for failure." Jarrett responded, "Perhaps you need to understand how to effectively enter into a new org."

23. From in or about March through May 2013, Jarrett routinely excluded Dyer from team meetings and other deal discussions. Accordingly, Dyer complained again to Davis about Jarrett's retaliatory behavior.

24. On or about April 18, 2013, Davis and Jarrett met Dyer at Davis's request. Jarrett became incensed during the meeting, stating that he "will evaluate [Dyer] between now and end of year" and make a decision then, making it clear that he intended to get rid of Dyer. He asked Dyer, "Why don't you leave?"

25. On or about May 22, 2013, Jarrett called Dyer to his office in Reston, Virginia, and told him that he was being demoted to "a rep on the Army Sales Team." Dyer asked if this was a demotion, and Jarrett confirmed, "Yes, it is a demotion." Jarrett then cited alleged performance issues as the reason for the demotion, and then he added that the demotion was in

response to Dyer having gone to human resources in January 2013. Jarrett then declared to Dyer, "You are the problem."

26. On or about May 23, 2013, Dyer sent an email to Melissa Bogers in Oracle's human resources department reporting Jarrett's discriminatory comments, harassment, retaliation, and job threats. Dyer also told Bogers that he believed he was being discriminated against by Jarrett because he was "not the right type of black person for Jarrett" due to Dyer's national origin. In response, Bogers tried to explain to Dyer that the position change was not a demotion but a transfer.

27. On or about June 10, 2013, Dyer was forced to accept a new position under Kevin Davis, internal title: DIS (Data Integration Solutions) Representative, External title: DIS Area Sales Manager. The territory is "ALL Department of Defense." This was a new position, and Davis brought it to Dyer.

28. On or about August 10, 2013, Dyer sent emails to Department of Defense managers requesting inclusion in their team meetings, and all managers except Jarrett responded in the affirmative. Jarrett did not reply. That same month, Dyer received a good annual performance review from his manager, Davis, and Dyer ended the year at 91% of sales quota despite not having been a full year in his role.

29. On or about September 8, 2013, Dyer won a sales award for Top DIS Rep Q1FY14 and was listed on the congratulatory email from Mark Johnson, SVP Public Sector. However, on September 17, 2013, Davis told Dyer during a one-on-one meeting that Jarrett was "already after your job" and that he had asked Davis to reduce Dyer's territory.

30. On or about September 25, 2014, Davis resigned, and on or about October 9, 2014, Jarrett was named as Davis's replacement, making Jarrett Dyer's manager again.

Accordingly, on or about October 12, 2014, Dyer contacted human resources via email to discuss his concerns about Jarrett being his manager again.

31. On or about October 17, 2014, Dyer had a phone call with Bogers again, and Dyer told Bogers that he was concerned Jarrett would retaliate further. Dyer reminded human resources of his performance and that he was already at 118% of his quota for the year to date. Bogers responded that human resources would talk to Jarrett.

32. On or about November 19, 2014, Dyer had his first one-on-one meeting with Jarrett as his new manager, and it was apparent from Jarrett's demeanor that he had received phone call from human resources and that he was taping the conversation with his cell phone.

33. On or about December 17, 2014, Jarrett held an all-hands meeting. He introduced his leadership team and invited them to the front. Administrators and contract specialists were invited to the front to receive applause, but Dyer was not called to the front.

34. On or about January 28, 2015, Jarrett had his second one-on-one meeting with Dyer. Jarrett told Dyer that his territory would be reduced by half starting in June 2015. Jarrett said, "You will have Army and Air Force and I'll hire someone new for Navy and Agencies" . . . "Hurry and make all the money you can make between now and May before your customers change." This change to Dyer's territory negatively affected his commissions because Dyer expected several large deals.

35. On or about February 5, 2015, Dyer sent an email to human resources asking to discuss retaliation and adverse job actions by Jarrett.

36. On or about February 9, 2015, Dyer discussed Jarrett's retaliatory action with Bogers and reported that the adverse job action was retaliation. Dyer also told Bogers that she should consult with Oracle's legal team about what Jarrett was doing.

37. On or about February 11, 2015, Dyer won a sales award for Top DIS Rep Q2FY15 and was listed on the congratulatory email from Mark Johnson, SVP Public Sector.

38. On or about February 25, 2015, an administrative staff member told Dyer that his territory was changed in the system at Jarrett's request "a long time ago." The administrative staff member further told Dyer, "I want to make sure you get paid for your work . . . talk to Ken [Jarrett]."

39. On or about March 11, 2015, human resources called Dyer and emailed an investigation closure memorandum. The investigation memorandum claimed that human resources found no evidence that Jarrett retaliated against Dyer.

40. On or about April 15, 2015, Dyer noted that $7,652 in commissions due to him was not paid because of the change Jarrett made in Dyer's territory. The sales credit receiver on that account (SPAWAR) was now DIS Rep TBH (To Be Hired), rendering Dyer not to be paid.

41. On or about May 21, 2015, Dyer emailed Bogers again, outlining Jarrett's continued discrimination and retaliation. In response, on or about May 27, 2015, an investigator contacted Dyer to be interviewed as part of an internal investigation. Dyer had an interview on or about June 1, 2015, with the investigator at Oracle. Dyer provided details, and the investigator told Dyer that Oracle was going to investigate his allegations and would be back in touch in a couple of weeks.

42. June 1, 2015, was the first day of Oracle's new fiscal year, and Jarrett sent an email formalizing the reduction in Dyer's territory and his demotion. Dyer's demotion left him with the title "Account Manager," when he was previously "DIS Area Sales Manager." There had been no discussion with Jarrett or anyone in management before this information was published, and human resources had stated as part of its previous investigation that management

would take his input about the territory reduction.

43. Jarrett also announced in his June 1, 2015, email that the lost half of Dyer's territory was going to Stephanie Cummings, an African American employee who frequently received special treatment from Jarrett because she is a member of a sorority that has ties to Jarrett's fraternity.

44. On or about July 30, 2015, Dyer spoke to Oracle's investigator, who reported that she found little wrongdoing. The investigator stated that Oracle was looking for another reporting structure for Dyer to eliminate direct contact between Dyer and Jarrett. The investigator told Dyer that he could look for other positions within the company.

45. On or about August 12, 2015, Dyer received a notice of the closed-out investigation after an hour-long phone discussion with the investigator. The investigation report was full of incorrect statements, and the investigator told Dyer to expect a call from Oracle Vice President, Mike Daniels, who was Jarett's supervisor, to discuss Dyer's interest in a new position.

46. Dyer responded that he would entertain that discussion but that if the compensation plan, quota, title, and level of responsibilities were to be less than what Dyer had previously, then he would be forced to bring his legal team into the discussion. This prompted a question about whether Dyer was thinking about leaving Oracle and receiving a severance package. Dyer responded that he was not interested in a severance package.

47. On or about or about August 17, 2015, Dyer emailed the investigator in response to the close-out memorandum, again emphasizing that he was entitled to commission and reaffirming the continued discrimination and retaliation.

48. Thereafter, on or about September 3, 2015, Dyer received a call from Daniels,

who told Dyer was that he would be moved from directly reporting to Jarrett to working under another manager who reports to Jarrett. This was effectively a demotion that still keeps Dyer in Jarrett's line of command.

49. On September 14, 2015, Dyer's representative emailed to Bogers and Patterson copies of discrimination and retaliation charges that were being filed with the EEOC in Baltimore and to the Montgomery County Human Rights Commission. The email further requested that Bogers and Patterson forward the discrimination charges to Oracle's legal counsel.

50. On September 15, 2015, Dyer filed a complaint of discrimination based on race and national origin discrimination and retaliation with the Montgomery County Human Rights Commission, and on September 16, 2015, Dyer filed a complaint of discrimination based on race and national origin discrimination and retaliation with the Equal Employment Opportunity Commission.

51. On or about or around October 2, 2015, Oracle initiated another investigation into Jarrett's treatment of Dyer, and on or about October 12, 2015, Dyer was demoted after he learned that he was to report to one of Jarrett's direct reports.

52. On or about November 13, 2015, Oracle concluded that Jarrett had not engaged in any wrongdoing and instead suggested that Dyer begin looking for other positions within Oracle.

53. In or about January of 2016 Dyer had an expense report denied by his manager per Jarrett's instructions. Accordingly, Dyer was forced to pay $265 of a work-related hotel stay out of his own pocket. Dyer's current manager, Jim Davis, reports to Jarrett, and on January 19, 2016, Davis told Dyer that he wanted to approve the expense report but that Jarrett intervened and asked him to not approve the report.

54. The forgoing has caused Dyer economic harm, as well as great stress and anxiety.

Dyer has been damaged as a result of this illegal discrimination and retaliation.

COUNT I
Discrimination
Montgomery County Code § 27-19(a)
Maryland Ann. Code of 1957, Art. 49B, *et seq.*

55. Plaintiff incorporates the foregoing paragraphs as though fully alleged herein.

56. Plaintiff is a "person" and Defendant is an "employer" as those terms are defined at Maryland Ann. Code of 1957, Art. 49B, § 15 and Montgomery County Code § 27-18.

57. Defendant unlawfully discriminated against Plaintiff with respect to his compensation, terms, conditions and privileges of employment, on account of his race and national origin.

58. As a direct and proximate result of the Defendants' unlawful and discriminatory conduct, Plaintiff has been damaged in an amount to be determined at trial including, but not limited to, the following: back pay, bonuses, tips, pension contributions and benefits, insurance contributions and benefits, fringe benefits, expenses and interest, front pay, costs of litigation, attorney's fees, emotional distress, and all other forms of economic, compensatory and punitive damages.

59. Plaintiff has suffered sleeplessness, anxiety, stress, depression, humiliation, loss of marital relations, and loss of self-esteem as a direct and proximate result of the Defendant's unlawful discrimination.

60. For violations of Montgomery County Code § 27-19(a) and Maryland Ann. Code of 1957, Art. 49B, *et seq*., Plaintiff is entitled to reparations, including, but not limited to, the following:

a. injunctive relief;
b. prejudgment interest;
c. economic damages including back pay;

d. compensatory damages;
e. actual expenses;
f. compensation for humiliation and embarrassment; and
g. any other relief that this Court deems just and equitable, to include damages, redress of injury, or injunctive relief, pursuant to §2-200; and
h. reasonable attorney's fees, expert witness fees, and costs, pursuant to Md. Ann. Code, Art. 49B, §42(c) and Md. Rule 2-703.

COUNT II
Retaliation
Montgomery County Code § 27-19(a)
Maryland Ann. Code of 1957, Art. 49B, *et seq.*

61. Plaintiff incorporates the foregoing paragraphs as though fully alleged herein.

62. Plaintiff is a "person" and Defendant is an "employer" as those terms are defined at Maryland Ann. Code of 1957, Art. 49B, § 15 and Montgomery County Code § 27-18.

63. Defendant unlawfully retaliated against Plaintiff with respect to his compensation, terms, conditions and privileges of employment for Plaintiff having made a complaint of discrimination, which is an unlawful act.

64. As a direct and proximate result of the Defendant's unlawful and discriminatory conduct, Plaintiff has been damaged in an amount to be determined at trial including, but not limited to, the following: back pay, bonuses, tips, pension contributions and benefits, insurance contributions and benefits, fringe benefits, expenses and interest, front pay, costs of litigation, attorney's fees, emotional distress, and all other forms of economic, compensatory and punitive damages.

65. Plaintiff has suffered sleeplessness, anxiety, stress, depression, humiliation, loss of marital relations, and loss of self-esteem as a direct and proximate result of the Defendant's unlawful retaliation.

66. For violations of Maryland Ann. Code of 1957, Art. 49B, § 16f, § 24, et seq. and Montgomery County Code § 27-19(a), Plaintiff is entitled to reparations, including, but not

limited to, the following:

i. injunctive relief;
j. prejudgment interest;
k. economic damages including back pay;
l. compensatory damages in the amount of $1,000,000.00;
m. actual expenses;
n. compensation for humiliation and embarrassment; and
o. any other relief that this Court deems just and equitable, to include damages, redress of injury, or injunctive relief, pursuant to §2-200; and
p. reasonable attorney's fees, expert witness fees, and costs, pursuant to Md. Ann. Code, Art. 49B, § 42(c) and Md. Rule 2-703.

PRAYER FOR RELIEF

Accordingly, Dyer respectfully requests that he be awarded the following relief:

A. Economic damages for lost wages and benefits, including two times the amount of back pay and interest on the back pay;

B. Compensatory (non-economic) damages, including damages for emotional distress and loss of reputation;

C. Non-economic damages for mental and emotional distress, embarrassment and humiliation, career damage, and harm to reputation;

D. Injunctive or equitable relief, as may be appropriate, to prevent further harm to others and the public;

E. Reasonable litigation costs, expert fees and reasonable attorney's fees, together with all other relief available from law and equity.

JURY DEMAND

Dyer demands a trial by jury for any and all issues proper to be so tried.

Respectfully submitted,

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